



NOVARTIS  
CORPORATE INTELLECTUAL PROPERTY  
ONE HEALTH PLAZA 104/3  
EAST HANOVER NJ 07936-1080

In re Application of:	:	
JOENSUU, Heikki	:	DECISION ON PETITION
U.S. Application No.: 10/502,534	:	
PCT No.: PCT/EP03/00802	:	
International Filing Date: 27 January 2003	:	
Priority Date: 28 January 2002	:	
Atty Docket No.: ON/4-32326A	:	
For: TREATMENT OF RHEUMATOID	:	
ARTHRITIS USING IMATINIB	:	

This decision is issued in response to the "Request To Revive Under 37 CFR 1.137(b)" filed 30 May 2006, treated herein as a petition under 37 CFR 1.181. No petition fee is required.

### **BACKGROUND**

On 27 January 2003, applicants filed international application PCT/EP03/00802. The international application claimed a priority date of 28 January 2002 and it designated the United States. On 07 August 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 28 July 2004.

On 26 July 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 09 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 11 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the Notification Of Missing Requirements.

On 30 May 2006, applicants filed the petition considered herein, treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. The petition asserts that on 05 January 2005 applicants filed a timely response to the Notification Of Missing Requirements, including an executed declaration. Attached to the petition is a copy of the materials purportedly

filed on 05 January 2005 (including the executed declaration), as well as a copy of a return postcard that itemizes these materials and bears a USPTO receipt stamp dated 05 January 2005.

### DISCUSSION

Based on the statements in the present petition and the attached return postcard, the materials attached to the present petition (including the executed declaration and the authorization to charge Deposit Account No. 19-0134 the required surcharge) will be treated as having been submitted on 05 January 2005. The submission is therefore considered a timely response to the Notification Of Missing Requirements mailed 09 December 2004.

The Notification of Abandonment mailed 11 May 2006, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately vacated. A review of the declaration attached to the petition confirms that the declaration is in compliance with 37 CFR 1.497.

### CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 11 May 2006 is hereby **VACATED**.

Deposit Account No. 19-0134 will be charged the \$130 surcharge for filing the declaration later than thirty months after the priority date.

The \$1500 petition fee submitted with the present petition, which is unnecessary based on the withdrawal of the abandonment, will be refunded to Deposit Account No. 19-0134.

This application is being returned to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 05 January 2005.



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